

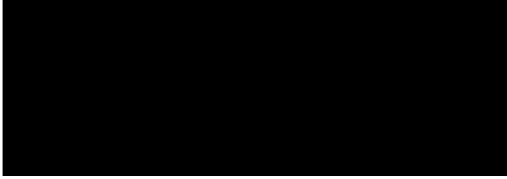


DC

U.S. Department of Justice

Immigration and Naturalization Service

OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536



PUBLIC COPY

File:

Office: CALIFORNIA SERVICE CENTER

Date:

JUN -4 2002

IN RE: Petitioner:

Beneficiary:

Petition:

Petition for Alien Fiance(e) Pursuant to Section 101(a)(15)(K)
of the Immigration and Nationality Act, 8 U.S.C.
1101(a)(15)(K)

IN BEHALF OF PETITIONER: SELF-REPRESENTED

Identify and
prevent clearly unlawful and
invasion of personal privacy

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Helen E. Crawford for
Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, California Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The petitioner is a naturalized citizen of the United States who seeks to classify the beneficiary, a native and citizen of Iran, as the fiance(e) of a United States citizen pursuant to section 101(a)(15)(K) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1101(a)(15)(K).

The director denied the petition after determining that the petitioner and the beneficiary had not personally met within two years before the date of filing the petition as required by section 214(d) of the Act. The director further found that the petitioner had failed to establish that he warranted a favorable exercise of discretion to waive this statutory requirement.

Section 101(a)(15)(K) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1101(a)(15)(K), defines "fiance(e)" as:

An alien who is the fiancée or fiance of a citizen of the United States and who seeks to enter the United States solely to conclude a valid marriage with the petitioner within ninety days after entry

Section 214(d) of the Act, 8 U.S.C. 1184(d), states in pertinent part that a fiance(e) petition:

shall be approved only after satisfactory evidence is submitted by the petitioner to establish that the parties **have previously met in person within two years before the date of filing the petition**, have a bonafide intention to marry, and are legally able and actually willing to conclude a valid marriage in the United States within a period of ninety days after the alien's arrival . . . [emphasis added].

The petitioner filed the Petition for Alien Fiance(e) (Form I-129F) on April 3, 2001. Therefore, the petitioner and the beneficiary were required to have met during the period that began on April 3, 1999 and ended on April 3, 2001.

With the initial filing of the petition, the petitioner indicated in response to Question #19 on the Form I-129F that he and the beneficiary had never met. However, he stated in a letter submitted with the petition that the parties "had talked and seen each other on video and when we were young." The petitioner also stated that he could not travel to Iran for political reasons and that the Iranian government would kill him if he returned.

In response to the director's request for additional information

and evidence concerning the parties' last meeting, the petitioner stated that he and the beneficiary had not met in a third country because she was unable to leave Iran without her father's permission and did not have a passport. The director found that the petitioner had failed to submit credible documentary evidence that he had met the beneficiary as required within the two-year period before the filing date of the petition and denied the application accordingly.

On appeal, the petitioner submits a letter stating that he cannot travel to Iran based on the danger and threat to his life and that meeting the beneficiary in a third country would have violated strict customs of the beneficiary's foreign cultural and social practice.

Pursuant to 8 C.F.R. 214.2(k)(2), a director may exercise discretion and waive the requirement of a personal meeting between the two parties if it is established that compliance would:

- (1) Result in extreme hardship to the petitioner; or
- (2) Violate strict and long-established customs of the beneficiary's foreign culture or social practice.

In the instant case, it is understandable that the petitioner cannot travel to Iran to meet the beneficiary. However, the petitioner has failed to submit any credible documentary evidence as to why he and the beneficiary cannot meet in a third country. Although the petitioner states that the beneficiary does not have a passport and needs her father's permission to travel, there is no explanation or evidence contained in the record to establish why these obstacles cannot be overcome. In addition, the petitioner has submitted no credible documentary evidence to support his claim that a personal meeting would violate strict and long-established customs of the beneficiary's foreign culture or social practice. He merely states on appeal that "her family is strict and practices deep cultural beliefs."

The petitioner has failed to establish that he and the beneficiary have personally met within the time period specified in section 214(d) of the Act, or that he warrants a waiver of the statutory requirement as a matter of discretion.

Pursuant to 8 C.F.R. 214.2(k)(2), the denial of this petition is without prejudice. If the petitioner and the beneficiary meet in person, the petitioner may file a new I-129F petition on behalf of the beneficiary. The petitioner will be required to submit evidence that he and the beneficiary have met within the two-year period that immediately precedes the filing of a new petition. Without the submission of documentary evidence that clearly establishes that the petitioner and the beneficiary have met in person during the requisite two-year period, the petition may not be approved unless

the director grants a waiver of that requirement.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. 1361. The petitioner has not met that burden.

ORDER: The appeal is dismissed.